

### **III. REMARKS**

#### **Status of the Claims**

Claims 1, 3-9, 13,14, 16,17, 23-27, 29, and 31-37 are amended. Claims 1-40 are presented for further consideration.

#### **Discussion of the Cited References**

The Examiner has rejected claim 27 under 35USC102(b) on the basis of the cited reference Andre, WO 98/01876. Claim 27 is amended to clearly define the features which distinguish the subject matter of this claim over the cited reference. In the system of Andre there is described a means for lighting labels associated with a key of a keyboard. The lighting means employs polarizing filters separate from the labels. The filters are fixed within the key and each is arranged to emit light from different directions while filtering light emitted by the other. The different labels are illuminated by selectively providing light from one of the directions. In the system of claim 27 polarizing film elements are stacked for relative movement. Key labels are selectively illuminated by adjusting the relative position of the polarized elements.

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of Andres would infringe the claims of this application, if it were later. Since the system of the reference Andre does not use polarized film elements that are mounted for movement relative to each other, there can be no infringement of the subject claims. Therefore the teaching of Andre does not support the rejection based on anticipation with respect to independent claim 27.

The Examiner has rejected claim 26 under 35USC 102(e) on the basis of the cited reference Bar-Yona, U.S. Patent No. 6,805,506. Claim 26 is amended to include the following:

**"wherein one of the at least two labels being visible and readable in a first orientation and the other of the label being visible and readable in a different orientation of the mobile communication terminal, and**

**further wherein the information shown on the display is reversed in orientation when the orientation of the mobile communication terminal is reversed."**

In accordance with the above anticipation analysis, since the device of the reference Bar-Yona does not have the above elements, this reference cannot support a rejection based on anticipation.

The Examiner has rejected claims 1-7 under 35USC103(a) based on the reference Ali, US Pub. No. 2003/0197679 in view of the teaching of Smith, US Pub. No. 2002/0033836. Claim 1, as amended, is directed to a mobile communication terminal that is equipped with means to change the labelling and function of a soft key, when the orientation of the mobile terminal is changed. Although the medical device of Ali, discusses a display that may be switched from a landscape mode to a portrait mode depending on the orientation of the device, it does not teach soft keys that are viewable in different orientations and whose function is adjusted depending on orientation. The suggested combination with the teaching of Smith does not remedy this deficiency as the teaching of Smith only describes a display that may be changed from landscape to portrait modes. There is no teaching within the combined disclosure of Smith and of changing the labelling and functionality of keys according to orientation.

With respect to the rejection of claims 8 and 9, the Examiner has indicated that the reference Smith teaches all of the particulars of claim 1. This is not true for the reasons stated above, especially in view of the amendments to claim 1. The cited reference Morgenthaler does not remedy the deficiencies of Smith. With respect to claim 9, the reference Morgenthaler is cited for the following teaching:

**"... Morgenthaler teaches in an analogous art, a terminal, wherein at least one of the hard keys is provided with a hard label that can be read in at least two different orientations."**

There is no support in the reference Morgenthaler for this statement. Figure 1 shows a standard terminal interface with keys that are labeled in a well known manner. There is no teaching of keys that are readable in different orientations.

With respect to claim 10, the examiner has cited the reference Miano US Pub. No. 2004/0045204 as teaching a hard label being formed by a hologram. This a means for using a hologram to present a point of sale advertisement on a product. This is for use with a product on a retail level. There is nothing analogous about this art. It is not plausible that such a device be incorporated into a mobile communication terminal. Nevertheless in view of the amendments to claim 1, the combination of the teachings of Smith and Miano does not remedy the deficiencies of Smith even if a combination was possible.

For the reasons described above the combination of the cited references Smith in view of Morgenthaler, and further in view of Andre fails to support a rejection based on obviousness. The

subject matter of claims 11 and 12 would not have been obvious to a person skilled in the art on the basis of the cited combined teachings. Contrary to the Examiner's statement the reference Andres does not teach "... wherein the orientation of hard label is changed by rotating a polarized film relative to another polarized film". The polarized portions of the keys of the reference Andre are fixed.

The Examiner has rejected claims 14-17 under 35USC103(a) on the basis of the reference Smith, in view of Logan, U.S. Patent No. 6,816,577. The Examiner indicates accurately that the reference Smith does not teach a keypad with at least one hard key that is readable in two different orientations. To remedy this deficiency, the Examiner has indicated that such a hard key label is shown in figure 2 of the reference Logan. The applicant submits that the Examiner is mistaken in this regard as there is nothing shown in figure 2 or the description relative to it, that indicates a label that is readable in more than one orientation as required by claims 14-17. The Examiner is reminded that claim 14 states that the function of the hard key is controlled depending on the hard key and in addition the label is controlled to match the function. These features are also not disclosed in Smith or Logan. The combination of these teachings, therefore, does not support a rejection of claims 14-17 based on obviousness.

The Examiner again relies on the cited reference Miano to show a hologram used as a label. As previously discussed, a point of sale advertisement for a deodorant hardly constitutes art analogous to a mobile communication terminal. The Examiner fails to indicate how the teaching of this reference could be modified to provide the feature of the claims 18 and 19. This omission is

not satisfied by the omnibus statement that it would be obvious to person skilled in the art.

The Examiner has rejected claims 20-25 under 35USC103(a) on the basis of the cited reference Morganthaler in view of the teaching of Levy, US Pub. No. 2004/021939. Again the Examiner seems to attribute more relevant substance to the disclosure of Morganthaler than is warranted. The reference describes a mobile telephone with a keypad interface that is illuminated in a manner to facilitate key recognition, but it is the operation of the array of lights upon which it depends. There is nothing to indicate that any keys are readable in different orientations or that the function of the soft keys are adjusted depending on orientation. Orientation does not play a role. The labeling of Morganthaler is standard mobile telephone labeling. Although the Examiner acknowledges the absence from the teaching of Morganthaler of a substrate under the keys, this is not the only deficiency of this reference as indicated above. The Examiner seeks to remedy the deficiencies of Morganthaler by combination with the teaching of Levy. The teaching of Levy is summarized as follows:

**"According to one aspect of the invention, a method of changing the visual appearance of keys of a keypad is provided. The method includes providing an assembled keypad with at least one key having an associated area containing an electrophoretic ink, with the keypad constructed to produce an output associated with the key when an elevated, exposed key surface is manipulated by a user to depress the key relative to the keypad. An electric field is passed through selected regions of the ink in the assembled keypad to alter a visual characteristic of the ink in the selected regions, with the regions selected to form a desired graphic label visible at the exposed surface of the key."**

As indicated in paragraph 19, as cited by the Examiner, a substrate may be located below the key and supports electrical elements. These electrical elements are used to stimulate the electrophoretic ink to create pixelated images. This is not a substrate, according to the claims of this application, that is moveable to adjust labels contained thereon. The combination of the cited references Morgenthaler and Levy do not therefore, support a rejection of claims 10-25 based on obviousness.

Claim 28 is directed to a keypad including a plurality of hard keys arranged in a substantially circular pattern. The keys of the key pad are at least partially transparent to allow labels contained below to be viewed. The labels on a substrate and are arranged in a circular pattern coincident with the keys and are moveable with respect to the keys. The Examiner has rejected this claim primarily on the basis of the reference Nuovo, U.S. Patent No. 6,756,969. The cited reference shows a circular keypad mounted for rotation on the body of a mobile telephone. Keypad is rotated to accommodate various orientations of the telephone. There is no substrate on which labels are presented for viewing below the keypad. The Examiner's citation of the reference Ostergard does not remedy this deficiency as the transparent key body of Ostergard will have nothing to view when combined with the teaching of Nuovo. The modification of Ostergard and Nuovo to obtain the invention described in claim 28 would not have been obvious to one skilled in the art.

The Examiner has rejected claim 29 of this application under 35 USC 103(a) based on the reference Logan in view of the teaching of Ali. There is no teaching of a function confirmation and rejection keys according to the claims of this application in the cited reference Logan. Although the medical device of Ali,

discusses a display that may be switched from a landscape mode to a portrait mode depending on the orientation of the device, this alone does not remedy the deficiencies of the disclosure of Logan. The suggested combination of the teachings of Logan and Ali do not lead a skilled person to a device according to claim 29. Such a combination is also beyond the scope of the obviousness doctrine as the device involved are substantially diverse. These arguments apply equally to claims 30-40.

### **The Issue of Obviousness**

It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.

Applicant submits that the above described deficiencies of the primary references are not remedied by the proposed combination with the teaching of the cited references. The combined references do not therefore support a prima-facie case of obviousness. The modification of the teachings of the combined references, in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

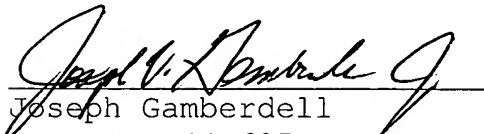
The above arguments apply equally to the rejected dependent claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in

proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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